

REMARKS

The Examiner required election among claims 36-37 under 35 U.S.C. § 121 asserting that the claims are not so linked as to form a single general inventive concept. In response, Applicants provisionally elect, with traverse, the subject matter in claims 36 and 37 wherein the single nucleotide polymorphisms include the nucleic acid sequences of SEQ ID NOS. 457-467. Applicants respectfully reserve the right to pursue the claims not elected in one or more divisional applications.

Applicant respectfully disagrees with the Examiner's restriction, and submits that the Examiner has not met the burden of establishing two or more independent and distinct inventions claimed in one application under 35 U.S.C. § 121 and that the search poses an undue burden on the U.S. Patent Office. For example, the Examiner could search SNPs that are not genetically linked with respect to one another, and SNPs located outside tandem repeat nucleic acid sequences, as these are the SNPs that the method utilizes. Thus, the distinctions between the groups and the species claimed therein are unclear and the Examiner has not established that the inventions and species therein are independent and distinct.

Moreover, searching each claim group would not pose a serious burden on the U.S. Patent Office, as the Examiner would almost certainly cite the same reference in one group against the other groups. Applicants submit that separate searches for each of the alleged groups and species would be substantially duplicative, and the Examiner has not demonstrated that a search directed to one group is unreasonable or would present an undue burden on the US Patent Office. Accordingly, Applicants respectfully request that the election requirement be reconsidered and withdrawn.

Applicant: Giles, et al.
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Response to Election Requirement
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If the Examiner has any questions regarding the present application, the Examiner is cordially invited to contact Applicants' attorney at the telephone number provided below.

Respectfully submitted,

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